

**From:** [Quinones, Edwin](#)  
**To:** [Moore, Gary](#)  
**Cc:** [Webster, Susan](#); [Hayes, Mark](#); [Delgado, Paige](#)  
**Subject:** RE: West Fertilizer Company Investigation  
**Date:** Tuesday, April 23, 2013 5:38:29 PM  
**Attachments:** [EVIDENCE AND SITE CONTROL AGREEMENT 4-23-13.docx](#)

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Here are some comments I made in redline to the draft. My main concern is that the preservation of evidence should not and does not interfere with the OSC's ability to direct or take-over the response. Please let me know what you think. My other concern, assuming management agrees we should enter into such agreement, is who would be authorized to sign it. Do either of you know who the OSHA attorney is so I may contact him/her?

Also, I forwarded Jack Rector's original draft to OGC who didn't have any qualms with us entering into agreements like these as a whole, but they suggested I also seek OECA's input just in case. I'll let you know if I hear anything from them once I forward it to them.

Ed  
X8035

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**From:** Moore, Gary  
**Sent:** Monday, April 22, 2013 12:45 PM  
**To:** Quinones, Edwin  
**Cc:** Webster, Susan; Hayes, Mark; Delgado, Paige  
**Subject:** FW: West Fertilizer Company Investigation

**Ed:**

**Could you please review this Evidence and Site Control Agreement prepared by OSHA for the group. This issue is how to preserve evidence and site control so that actions taken by the various agencies do not impact the evidence on the site.**

**I do not necessarily think that we will be doing any evidence collection activities but may need to collect on-site samples. It appears that TCEQ wants the lead on the cleanup activities on the site should the RP decide not to do such actions. They intend on issuing a demand letter to the owner very soon.**

**Please review this agreement with our managers and make whatever modifications need to be made to this agreement for us to be a party if we determine that we may take some actions on the site.**

**Thanks**

**Gary Moore**  
Federal On-Scene Coordinator  
U.S. EPA Region 6  
214-789-1627 cell  
214-665-6609 office

[moore.gary@epa.gov](mailto:moore.gary@epa.gov)

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**From:** Rector, Jack - OSHA [Rector.Jack@dol.gov]

**Sent:** Sunday, April 21, 2013 3:34 PM

**To:** Delgado, Paige; [kelly.crunk@tceq.texas.gov](mailto:kelly.crunk@tceq.texas.gov); [don.holmstrom@csb.gov](mailto:don.holmstrom@csb.gov); Moore, Gary; [cheryl.mackenzie@csb.gov](mailto:cheryl.mackenzie@csb.gov)

**Subject:** Fwd: West Fertilizer Company Investigation

All,

Attached is a working draft of an evidence and site control agreement for this matter. It is modeled after some others OSHA has used in prior cases, however, we will need to come up with some more precise definitional items, e.g., the exclusion zone in paragraph A.1.a and/or paragraph C.8.a (dealing with steps for evidence collection removal steps that are specific to this situation). Please look it over and let me know what changes, additions, etc. everyone would like to see. I will compile those into one agreement and send out for everyone's approval. Thanks...

Jack Rector

Sent from my iPad

Begin forwarded message: